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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,161	02/06/2007	Martin Steinwender	20496-514	7769
42532	7590	05/05/2010	EXAMINER	
PROSKAUER ROSE LLP			BELL, WILLIAM P	
ONE INTERNATIONAL PLACE				
BOSTON, MA 02110			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			05/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/574,161	STEINWENDER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	WILLIAM P. BELL	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 January 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.  
 4a) Of the above claim(s) 1-9 and 20-29 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 10-19 and 30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/28/2006, 01/20/2010</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 10-19 and 30 in the reply filed on 20 January 2010 is acknowledged.
2. Claims 1-9 and 20-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 20 January 2010.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10, 11, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishibori (European Patent Application No. EP-0667375, already of record).

Regarding claim 10, Nishibori teaches a process for production of a structural part (see page 6, lines 14-22) from a compound of a thermoplastic synthetic material and a strengthening component (see page 6, lines 15-16), wherein the thermoplastic synthetic material of the compound comprises polyethylene terephthalate (PET) collected from used PET products (see page 6, lines 23-26) and the strengthening component

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comprises organic filler (see page 6, line 15, wherein wood meal is an organic filler), and wherein the structural part is produced through thermoplastic conversion (see page 6, lines 14-23, wherein extrusion is a thermoplastic conversion process).

Regarding claim 11, Nishibori teaches a process wherein a board-shaped structural part is produced (see page 6, line 14).

Regarding claim 30, Nishibori teaches a process wherein thermoplastic conversion comprises extrusion (see page 6, line 22).

5. Claims 10, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Medoff (U.S. Patent No. 6,207,729, already of record). Regarding claim 10, Medoff teaches a process for production of a structural part (see column 5, lines 33-65) from a compound of a thermoplastic synthetic material and a strengthening component (see column 5, lines 33-34), wherein the thermoplastic synthetic material of the compound comprises polyethylene terephthalate (PET) collected from used PET products (see column 4, lines 52 and 57-59) and the strengthening component comprises organic filler (see [0071]), and wherein the structural part is produced through thermoplastic conversion (see column 3, lines 8-19).

Regarding claim 14, Medoff teaches a process wherein at least one surface of the structural part is provided with a coating (see column 6, lines 42-43, wherein covering a composite material with a veneer is providing a coating on the composite material).

Regarding claim 15, Medoff teaches a process wherein the surface is laminated with a laminate (see column 6, lines 42-43, wherein covering a composite material with a veneer is providing a coating; furthermore, the term veneer refers to a thin layer of wood).

6. Claims 10, 11, 13, 14, 17-19, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsumoto (U.S. Patent Application Publication No. US 2002/0192401, already of record). Regarding claim 10, Matsumoto teaches a process for production of a structural part (see [0019] and [0161]) from a compound of a thermoplastic synthetic material and a strengthening component (see [0020]), wherein the thermoplastic synthetic material of the compound comprises polyethylene terephthalate (PET) collected from used PET products (see [0070]) and the strengthening component comprises organic filler (see [0071]), and wherein the structural part is produced through thermoplastic conversion (see [0101]).

Regarding claim 11, Matsumoto teaches a process wherein a board-shaped structural part is produced (see [0152] and Figure 2, wherein hot shaping die 2 will produce an extruded board-shaped part).

Regarding claim 13, Matsumoto teaches a process wherein a rope-shaped structural part is produced (see [0165] and Figure 3, wherein a profile die is used to form an extruded profile; applicant recites extruded profiles as examples of rope-shaped parts; see page 7, paragraph 2 of the instant application).

Regarding claim 14, Matsumoto teaches a process wherein at least one surface of the structural part is provided with a coating (see [0078]).

Regarding claim 17, Matsumoto teaches a process wherein the coating is applied in liquid form (see [0134]).

Regarding claim 18, Matsumoto teaches a process wherein a color coating, lacquer, or artificial resin is used as the liquid coating (see [0078] and [0088]-[0092]).

Regarding claim 19, Matsumoto teaches a process wherein a coating of synthetic material is applied by means of co-extrusion (see [0150]-[0153] and Figures 1 and 2; the process taught by Matsumoto is a coextrusion process because both the composite material and the coating material are extruded and formed into a single product in a single process).

Regarding claim 30, Matsumoto teaches a process wherein thermoplastic conversion comprises extrusion (see [0069]).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto as applied to claim 11 above, and further in view of Nishibori (EP-0667375). Matsumoto teaches extrusion of forming a board-shaped product as described above, but does not

teach the use of a calendering device or double band press downstream of the thermoplastic conversion. Nishibori teaches that it is known in the prior art to calender synthetic wood boards after extrusion (see page 3, lines 18-27). It would have been obvious to one of ordinary skill in the art at the time of the invention to have applied a calendering device to the synthetic wood board taught by Nishibori for the benefit of rolling the board to a predetermined thickness (see page 3, line 26).

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Medoff as applied to claim 14 above, and further in view of Shah (U.S. Patent No. 6,028,212). Medoff teaches a process of producing a wood-based composite material, as described above. Medoff teaches a wide range of applications for the composite material, including many which are commonly powder coated (see column 6, lines 18-41). Shah teaches that it is known to apply powder coatings to wood composites (see column 8, lines 39-41). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method taught by Medoff by applying a powder coating to the composite material, as taught by Shah, for the benefit of providing a surface coating that meets the aesthetic and/or surface requirements of the products taught by Medoff as applications for the composite material

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM P. BELL whose telephone number is

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(571)270-7067. The examiner can normally be reached on Monday - Thursday, 8:00 am - 5:30 pm; Alternating Fridays, 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM P BELL/  
Examiner, Art Unit 1791

/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791